

- (6) All nonassigned telephone numbers in central offices serving more than 300 customer access lines shall be intercepted unless otherwise approved by the commission.
 - (7) Disconnected residence telephone numbers shall not be reassigned for 30 days and disconnected business numbers shall not be reassigned, unless requested by the customer, for 30 days or the life of the directory, whichever is longer unless no other numbers are available to provide service to new customers.
 - (8) If a customer's number is incorrectly listed in the directory and if the incorrect number is a working number and if the customer to whom the incorrect number is assigned requests, the number shall be changed at no charge. If the incorrect number is not a working number and is a usable number, the customer's number shall be changed to the listed number at no charge if requested.
 - (9) When additions or changes in plant or changes to any other local exchange carrier operations necessitate changing telephone numbers to a group of customers, at least 30 days' written notice shall be given to all customers so affected even though the addition or changes may be coincident with a directory issue.
 - (10) At the customer's option the directory shall list either the customer's street address or post office box number. A charge can be imposed upon those customers who desire both listings.
- (c) **Emergency operation.**
- (1) Each DCTU's central office not equipped with permanently installed standby generators shall contain as a minimum four hours of battery reserve without voltage falling below the level required for proper operation of all equipment. It is also essential that all central offices have adequate provisions for emergency power. In offices without installed emergency power facilities, there shall be a mobile power unit available which can be delivered and connected on short notice.
 - (2) In exchanges exceeding 5,000 lines, a permanent auxiliary power unit shall be installed.
- (d) **Inspections and tests.**
- (1) Each DCTU shall adopt a program of periodic tests, inspections, and preventive maintenance aimed at achieving efficient operation of its system and rendition of safe, adequate, and continuous service.
 - (2) Each DCTU shall maintain or have access to test facilities enabling it to determine the operating and transmission capabilities of all equipment and facilities. The actual transmission performance of the network shall be monitored in order to determine if the service objectives in this chapter are met. This monitoring function shall include, but not be limited to, circuit order tests prior to placing trunks in service, routine periodic trunk maintenance tests, tests of actual switched trunk connections, periodic noise tests of a sample of customer loops in each exchange, and special transmission surveys of the network.
 - (3) Each central office serving more than 300 customer access lines shall be equipped with a 1,000±20 hertz, one milliwatt test signal generator and a 900 Ohm balanced termination device wired to telephone numbers so that they may be accessed for dial test purposes. Each DCTU shall advise the commission of the numbers assigned for these test terminations.
- (e) **Service objectives and Surveillance Levels.** This section establishes service objectives that should be provided by a DCTU, as applicable. The rules also include surveillance levels that indicate a need for the utility to investigate, take appropriate corrective action, and provide a report of such activities to the commission. The objective service levels are based on monthly averages, except for dial service and transmission requirements, which are based on specific samples. DCTUs shall make measurements to determine the level of service quality for each item included in these rules. Each DCTU shall provide the commission with the measurements and summaries thereof for any of the items included herein on request of the commission. Records of these measurements and summaries shall be retained by the DCTU as specified by the commission.
- (1) **One-Party Line Service and Voice Band Data.**
 - (A) Beginning January 1, 1997, one-party line service will be made available to all subscribers of local exchange service upon request.

- (B) All open wire transmission media shall be replaced with more reliable and better quality transmission media by the end of 1998, unless otherwise exempted by the commission. Upon completion or delay in the meeting of this requirement, a report to that effect shall be filed with the commission.
- (C) All switched voice circuits shall be adequately designed and maintained to allow transmission of at least 2,400 bits of data per second when connected through an industry standard modem (CCITT V.22bis or equivalent) or a facsimile machine, by the end of 1998. This upgrade will be made at no charge to the individual customer.
- (D) Within 180 days of the effective date of this section, a DCTU may request a waiver from the requirements of subparagraph (C) of this paragraph. Such a waiver request may be granted only if the commission determines that all of the following requirements have been met.
 - (i) The cost to the DCTU of implementing the provisions of subparagraph (C) of this paragraph exceeds the public benefit thereof.
 - (ii) The DCTU has submitted a reasonable implementation plan stating, on an exchange-by-exchange basis, the date (not later than December 31, 2003) by which it will comply with the requirement, for each exchange, that all switched voice circuits shall be adequately designed and maintained to allow transmission of at least 2,400 bits of data per second when connected through an industry standard modem (CCITT V.22bis or equivalent) or a facsimile machine. The DCTU may also seek to show why this clause requirement should not be imposed. The commission shall have discretion to waive or modify this clause requirement consistent with the terms of clause (i) of this subparagraph.
 - (iii) The DCTU has submitted proposed tariff sheets which provide that:
 - (I) upon request by a customer, the DCTU will upgrade the customer's switched voice circuits to allow transmission of at least 2,400 bits of data per second when connected through an industry standard modem (CCITT V.22bis or equivalent) or a facsimile machine;
 - (II) the upgrade will be made at no charge to the individual customer; and
 - (III) the upgrade request will be completed within the time period allowed for a service order for regular service installation pursuant to paragraph (2)(B) of this subsection.
 - (iv) The DCTU has agreed to provide an on-going customer education program, acceptable to the commission, which assures that the DCTU's customers are aware of the availability of the service quality upgrade.
- (2) Installation of service. Unless otherwise provided by the commission:
 - (A) Ninety-five percent of the DCTU's service orders for installing primary service shall be completed within five working days, excluding those orders where a later date was specifically requested by the customer. Surveillance Level: 85% in any exchange area for a period of three consecutive months.
 - (B) Ninety percent of the DCTU's service orders for regular service installations shall be completed within five working days, excluding those orders where a later date was specifically requested by the customer. This includes orders for primary and other services, installations, moves, or changes, but not complex services. Surveillance Level: 85% in any exchange area for a period of three consecutive months.
 - (C) Each DCTU shall establish and maintain installation time commitment guidelines for the various complex services contained in its tariff. Those guidelines should be available for public review and should be applied in a nondiscriminatory manner.
 - (D) The installation interval measurements outlined in subparagraphs (A)-(C) of this paragraph shall commence with either the date of application or the date on which the applicant qualifies for service, whichever is later.
 - (E) If the DCTU elects, it may collect data on the basis of seven calendar days. In that case, these requirements shall pertain to seven calendar days in lieu of five working days.

- (F) The DCTU shall provide to the customer a due date on which the requested installation or change shall be made. If a customer requests that the work be done on a regular working day later than that offered by the DCTU, then the customer's requested date shall be the commitment date. If a premises visit is required, the DCTU shall establish an appointment period with the customer for morning or afternoon, on the due date. Where an appointment cannot be kept by the DCTU, the DCTU shall attempt to notify the customer by a telephone call and schedule a new appointment. If unable to gain access to the customer's premises during the scheduled appointment period, the DCTU carrier representative shall leave a notice at the premises advising the customer how to reschedule the work.
 - (G) Ninety percent of the DCTU's commitments to customers as to the date of installation of service orders shall be met excepting customer-caused delays. Surveillance Level: 88% in any exchange area for a period of three consecutive months.
 - (H) The installation interval and commitment requirements of subparagraphs (A)-(G) of this paragraph do not include service orders either to disconnect service or to make only record changes on a customer's account.
 - (I) A held regrade order is one not filled within 30 days after the customer has made application for a different grade of service except where the customer requests a later date. In the event of the DCTU's inability to so fill such an order, the customer will be advised and furnished the date when it will be available. The number of held regrade orders shall not exceed 1.0% of the total number of customer access lines served.
- (3) Operator handled calls.
- (A) DCTUs shall maintain adequate personnel to provide an average operator answering performance as follows for each exchange on a monthly basis:
 - (i) Eighty-five percent of toll and assistance operator calls answered within ten seconds, or average answer time shall not exceed 3.3 seconds. Surveillance Level: 80% (or equivalent) at any answering location for a period of four days within any given month.
 - (ii) Ninety percent of repair service calls, calls to the business office, and other calls shall be answered within 20 seconds (equivalent measurements may be used). Surveillance Level: 85% (or equivalent) at any answering location for a period of five days within any given month.
 - (iii) Eighty-five percent of directory assistance calls shall be answered within ten seconds or the average answer time shall not exceed 5.9 seconds. Surveillance Level: 80% (or equivalent) at any answering location for a period of four days within any given month.
 - (B) An "answer" shall mean that the operator, interactive voice system, or representative, is ready to render assistance and/or ready to accept information necessary to process the call. An acknowledgment that the customer is waiting on the line shall not constitute an "answer."
 - (C) DCTUs may measure answer time on a toll center or operating unit basis in lieu of measuring answer time in each exchange unless specifically requested by the commission.
- (4) Local dial service. Sufficient central office capacity and equipment shall be provided to meet the following requirements during the busy season:
- (A) dial tone within three seconds on 98% of calls. For record-keeping and reporting purposes, 96% in three seconds during average busy season, busy hour, shall be acceptable as complying with this requirement;
 - (B) completion of 98% of intraoffice calls (those calls originating and terminating within the same central office building) without encountering an equipment busy condition (blockage) or equipment failure;
 - (C) the availability factor for stored program controlled digital and analog switching facilities shall be 99.99%, or the total unscheduled outage shall not exceed 53 minutes per year.
- (5) Local interoffice dial service.
- (A) Each DCTU shall provide and maintain interoffice trunks on its portion of the local exchange service network so that 97% of the interoffice local calls excluding calls between central offices in the same building are completed without encountering equipment busy conditions or

equipment failures. For DCTUs' testing, record-keeping, and reporting purposes, DCTUs are not required to separate local dial service results from local interoffice dial service results unless specifically requested by the commission.

- (B) The availability factor for stored program controlled digital and analog switching and interoffice transmission facilities for end to end transmission shall be 99.93%, or the total unscheduled outage shall not exceed 365 minutes per year.
- (6) **Direct distance dial service.** Engineering and maintenance of the trunk and related switching components in the toll network shall be such as to permit 97% completion on properly dialed calls, without encountering failure because of blockages or equipment irregularities.
- (7) **Customer trouble reports.**
 - (A) The DCTU shall maintain its network service in such a manner that the average monthly rate of customer trouble reports, excluding customer premises equipment (CPE) reports, per 100 customer access lines does not exceed six. Surveillance Level: eight per 100 access lines per month per exchange for a period of three consecutive months.
 - (B) The DCTU shall provide to the customer a commitment time by which the trouble will be cleared. If a premises visit is required, the DCTU shall establish an appointment period with the customer for the morning or afternoon. When an appointment cannot be kept by the DCTU, the DCTU shall attempt to notify the customer by a telephone call and schedule a new appointment. If unable to gain access to the customer's premises during the scheduled appointment period, the DCTU representative shall leave a notice at the premises advising the customer how to reschedule the work.
 - (C) At least 90% of out-of-service trouble reports on service provided by a DCTU shall be cleared within eight working hours, except where access to the customer's premises is required but not available or where interruptions are caused by unavoidable casualties and acts of God affecting large groups of customers. Surveillance Level: 85% in any exchange area for a period of three consecutive months.
 - (D) Each DCTU shall establish procedures to insure the prompt investigation and correction of trouble reports so that the percentage of repeated trouble reports on residence and single line business lines does not exceed 22% of the total customer trouble reports on those lines.
- (8) **Transmission requirements.**
 - (A) **Requirements.** All voice-grade trunk facilities shall conform to accepted transmission design factors and shall be maintained to meet the following objectives when measured from line terminals of the originating central office to the line terminals of the terminating central office.
 - (i) **Interoffice local exchange service calls.** Excluding calls between central offices in the same building, 95% of the measurements on the network of a DCTU should have from two to ten decibels loss at 1000+20 hertz and no more than 30 decibels above reference noise level ("C" message weighting).
 - (ii) **Direct distance dialing.** Ninety-five percent of the transmission measurements should have from three to 12 decibels loss at 1000+20 hertz and no more than 33 decibels above reference noise level ("C" message weighting).
 - (B) **Subscriber lines.** All newly constructed and rebuilt subscriber lines shall be designed for a transmission loss of no more than eight decibels from the serving central office to the customer premises network interface. All subscriber lines shall be maintained so that transmission loss does not exceed ten decibels. Subscriber lines shall in addition be constructed and maintained so that metallic noise does not exceed 30 decibels above reference noise level ("C" message weighting) on 90% of the lines. Metallic noise shall not exceed 35 decibels above reference noise level ("C" message weighting) on any subscriber line.
 - (C) **PBX, key, and multiline trunk circuits.** PBX, key, and multiline trunk circuits shall be designed and maintained so that transmission loss at the subscriber station does not exceed eight decibels. If the PBX or other terminating equipment is customer owned and if transmission loss exceeds eight decibels the DCTU's responsibility shall be limited to

providing a trunk circuit with no more than five decibels loss from the central office to the point of connection with customer facilities.

- (D) **Impulse Noise Limits.** The requirements for impulse noise limits shall be as follows:
- (i) For switching offices, the noise level count shall not exceed five pulses above the threshold in any continuous five minute period on 50% of test calls. The reference noise level threshold shall be less than: 54 dBrnC for Crossbar switch, 59 dBrnC for step-by-step switch, and 47 dBrnC for electronic or digital switch.
 - (ii) For trunks, the noise level count shall not exceed five pulses above the threshold in any continuous five minute period on 50% of trunks in a group. The reference noise level threshold shall be less than 54 dBrnCO for voice frequency trunks, and 62 dBrnCO for digital trunks.
 - (iii) For loop facilities, the noise level count shall not exceed 15 pulses above the threshold in any continuous 15 minute period on any loop. The reference noise level threshold shall be less than 59 dBrnC when measured at central office (CO), or referred to CO through 1004 Hz loss.
- (f) **Service observing.** Before any business telephone customer utilizes service observing equipment to monitor calls originated by or received at the business telephones, the customer must agree in writing to inform all employees that calls over the business telephones are subject to being monitored.
- (g) **Traffic usage studies.** In all DCTU central offices serving 2,000 or fewer access lines, traffic usage studies shall be performed at least once every three years unless otherwise authorized by the commission. In all DCTU central offices serving in excess of 2,000 customer access lines, traffic usage studies shall be performed at least annually unless otherwise authorized by the commission. Traffic usage studies shall include at least three days (within a consecutive five-day period or five days within a consecutive seven-day period) and shall include a usage record on at least an hourly basis. The usage record shall be in CCS or similar measurement (peg counts are not acceptable for this purpose). Record of the most recent study shall be maintained and made available on request for commission review.
- (h) **Depreciation rates.** DCTUs shall use depreciation rates approved by the commission to determine depreciation expense and provide for accumulated depreciation (also referred to as depreciation reserve). For purposes of this section, depreciation rates used prior to September 1, 1976, and those in effect on September 1, 1976, shall be deemed appropriate for use, unless subsequently modified by the commission.
- (1) **Depreciation rate changes for telecommunications utilities subject to regulation of interstate depreciation rates by the Federal Communications Commission.** Telecommunications utilities subject to interstate regulation by the Federal Communications Commission are also required to file for commission approval of intrastate depreciation rates. Filings should be made in the same format and on the same schedule as those required by the federal regulatory body, with the addition of proposed intrastate accrual changes calculated through use of jurisdictional separations procedures. The utility shall have the burden of proof to establish that requested intrastate depreciation rate changes are reasonable and in the public interest in proceedings before the commission.
 - (2) **Depreciation rate changes for other dominant carriers.** Any DCTU, except as covered in paragraph (1) of this subsection, requesting a change in depreciation rates must request commission approval and include in its request the information set out in subparagraphs (A)-(C) of this paragraph.
 - (A) For each property account or subaccount for which a depreciation rate change is proposed:
 - (i) the plant in service and the accumulated depreciation as of the requested effective date for the proposed depreciation rates;
 - (ii) the total of accruals, additions, retirements, gross salvage, and cost of removal for each of the preceding 4 years; and,
 - (iii) detailed justification for the proposed changes.

- (B) The requested effective date of the changes. A request for an effective date that is earlier than January 1st of the year in which the request is filed must be fully justified in order to receive consideration.
 - (C) The change in annual depreciation expense that would result from adoption of the proposed depreciation rates, expressed both as a dollar amount and as a percentage of current total depreciation expense.
- (3) **Methods for figuring depreciation rates.** On application by a utility, the commission shall fix depreciation rates that promote deployment of new technology and infrastructure. In setting depreciation rates, the commission shall consider depreciation practices of nonregulated telecommunications providers. Depreciation rates must be based on reasonable methods of depreciation; however, the commission reserves the right to specifically consider any and all appropriate methods of depreciation in each case.
 - (4) **Burden of proof.** A DCTU shall have the burden of proof to show that depreciation or amortization expense is reasonable, necessary and in the public interest. The DCTU shall also be required to show that depreciation rate changes were timely requested in accordance with prudent management practices. The burden of proof shall not be satisfied solely by demonstrating that the depreciation rates or amortization periods used were approved. If the DCTU fails to meet this burden the commission may deny as a cost of service that depreciation or amortization expense.
 - (5) **Interim booking.** Unless otherwise ordered by the commission, a DCTU may book depreciation and amortization expense on an interim basis based on proposed depreciation rates from the month of filing until interim or final action by the commission. Interim booking shall be adjusted upon final approval of depreciation rates and records must be maintained showing the interim booking and the adjustments, if any, that were made upon final approval of the rates.
 - (6) **Special amortization.** Where all or a substantial portion of a property account or subaccount is retired earlier than anticipated and the reserve for that account is less than the amount to be retired less salvage, or in other instances when an amortization is appropriate, special amortization may be requested.
 - (A) If the amortization period is two years or less, and the annual amount to be amortized is less than 2.0% of annual revenues, the DCTU shall advise the commission. The commission may review the appropriateness of such amortization during rate cases.
 - (B) If the amortization period is more than two years, or the amount to be amortized is more than 2.0% of annual revenues, commission approval is required.
 - (7) **New depreciation rates.** When a DCTU determines a need to establish a new depreciation rate for a new class of property, it may adopt a depreciation rate that has been approved by the commission for a similar DCTU for the same property class if similar depreciation parameters and methods are used to determine the rates. The DCTU must notify the commission that it has adopted such rates within 45 days of its adoption. The commission may review and modify such rates upon appropriate motion or in subsequent rate or depreciation proceedings.
 - (8) **Subtitle H companies.** A company electing under Subtitle H of this title may determine its own depreciation rates and amortizations, but shall notify the commission of any subsequent changes to the rates or amortizations. Such company shall notify the commission using the same format required by the Federal Communications Commission for depreciation and amortization filings.
- (i) **Registration of nondominant telecommunications carriers.** Each nondominant carrier not holding a certificate of operating authority or service provider certificate of operating authority and not currently registered with the commission shall file with the commission the information set forth in paragraphs (1)-(7) of this subsection within 30 days of commencing service in Texas. Each uncertificated nondominant carrier shall keep this information updated and current at all times. Each certificated nondominant carrier also shall keep updated and current the similar information included in its application for a certificate. By June 30 of each year each nondominant carrier that has not filed during the previous 12-months changes to the information filed pursuant to this subsection shall file with the commission a letter informing the commission that no changes have occurred. An uncertificated nondominant carrier failing to file either

the letter or the updates required by this subsection during the 12-month period ending June 30 may no longer be considered to be registered with the commission.

- (1) legal name and assumed names, if any;
- (2) address and telephone number of the principal office;
- (3) date service commenced in Texas;
- (4) name, address, and office location of each partner (if applicable) or each officer;
- (5) names and addresses of five largest shareholders (if applicable);
- (6) name, address, and telephone number of registered agent or designated person who can be contacted by the commission; and
- (7) name, address, and telephone number of attorney, if any.

- (j) **Information regarding rates and services of nondominant carriers.** All nondominant carriers, including those holding a certificate of operating authority or a service provider certificate of operating authority, shall file the information set forth in paragraphs (1)-(3) of this subsection. This information shall be updated and kept current at all times. By June 30 of each year, each nondominant carrier that has not filed during the previous 12 months changes to the information filed pursuant to this subsection shall file with the commission a letter informing the commission that no changes have occurred. An uncertificated nondominant carrier failing to file either this letter or the updates required by this subsection during the 12-month period ending June 30 may no longer be considered to be registered with the commission.

- (1) a description of the type(s) of communications service provided;
- (2) for each service listed in response to paragraph (1) of this subsection, the locations in the state (by city) in which service is originated and/or terminated. If service is provided statewide, either origination or termination, the carrier shall so state; and
- (3) a tariff, schedule or list showing all recurring and nonrecurring rates for each service provided.

§23.68 Embedded Customer Premises Equipment.

- (a) **Definitions.** The following words and terms, when used in this section, shall have the following meanings, unless the context clearly indicates otherwise:
 - (1) **Customer premises equipment (CPE)** — Telephone terminal equipment located at a customer's premises. This does not include overvoltage protection equipment, inside wiring, coin-operated or pay telephone, "company-official" equipment, mobile telephone equipment, "911" equipment, necessary for provision of communications for national defense, or multiplexing equipment used to deliver multiple channels to the customer.
 - (2) **Embedded customer premises equipment** — All CPE owned by a telecommunications utility, including inventory, which was tariffed or subject to the separations process as of January 1, 1983.
- (b) **Scope.** The provisions of this section apply to the detariffing, transfer, and valuation of embedded CPE of all local exchange carriers which own embedded CPE as of the effective date of this rule.
- (c) **Detariffing plan.** No local exchange carrier shall continue to provide CPE on a tariffed basis after December 31, 1987, except as provided under subsection (k) of this section. Necessary tariff revisions shall be filed by the carrier to accomplish such purpose, pursuant to the Public Utility Regulatory Act and the Public Utility Commission of Texas rules governing tariffs.
- (d) **Transfer of sale of embedded CPE.** Each local exchange carrier must implement a plan for the sale of in-place embedded CPE to current customers for a period of no less than 120 days prior to detariffing. The carrier may, no earlier than the detariffing date, transfer or sell the embedded CPE to a non-regulated account or subsidiary of the carrier or to a third party. Local exchange carriers which choose not to offer a detariffed leasing of embedded CPE shall provide at least 90 days notice in writing to customers before detariffing. The notice shall contain a description of the proposed change, information regarding the disposition of embedded CPE upon detariffing, and a description of the options available to the customer. In any notice requiring the customer to choose between purchase and lease of CPE, the steps necessary to make each choice shall be the same, and a customer's failure to respond to the question will be treated as a decision to continue leasing. For those local exchange carriers which have initiated in-place sales plans prior to the effective date of this section, a determination of satisfactory compliance shall, upon application of the carrier, be made by the staff.
- (e) **Sale procedures and valuation.** The local exchange carrier shall use the following criteria in determining the sale or transfer price of embedded CPE covered within this section:
 - (1) the carrier shall attempt to recover the net book value and sales transaction costs allocated to embedded CPE within each account;
 - (2) the carrier may establish sale or transfer prices for embedded CPE and associated inventory based on net book value or reasonable market value. The carrier must provide sufficient justification and support for use of market value for sale or transfer pricing;
 - (3) for customers currently leasing multi-line and non-standard CPE, the local exchange carrier shall provide written sale price quotations upon request and guarantee these price quotations for 120 days or until the detariffing date, whichever is shorter.
 - (4) any differential between the revenue from actual sales or transfer of embedded CPE and the combination of net book value and transaction costs shall be amortized in accordance with Section 23.61(h)(3) of this title (relating to Telephone Utilities).
- (f) **Accounting treatment.** The revenues and expenses associated with embedded CPE activity are to be recorded in accordance with the prescribed uniform system of accounts. Specifically the following conditions will be required:
 - (1) Any sales or transfer of embedded CPE will be accounted for under salvage accounting as required by the applicable uniform system of accounts.
 - (2) Any transfers of land and buildings used in support of CPE to nonregulated activities will be valued on a basis consistent with that used to value embedded CPE. Any transfers of other CPE supporting assets (i.e. motor vehicles, computers, furniture, fixtures, and machinery and any other assets utilized

- in the conduct of nonregulated CPE activity) to nonregulated activities will be valued at net book value.
- (3) Carriers are required to allocate costs to nonregulated activities on a fully distributed costing basis and shall maintain records detailing costs and usage to support the allocations.
 - (4) Nonregulated activities must be accounted for in a separate set of books. To provide flexibility, the actual accounting system to be established will be left to the utilities. However, the separate system of accounts must be precise, detailed, and auditable. All carriers will maintain summary accounts consistent with those prescribed in Code of Federal Regulations, Title 47, Part 31 to isolate nonregulated activities on the regulated books.
 - (5) The deferred tax reserves and unamortized tax credits associated with all embedded CPE must be transferred with the CPE upon deregulation.
- (g) **Warranties.** Embedded CPE sold by the utility must carry no less than 90 day limited warranty, excluding telephone housings and cords.
- (h) **Installment purchase.** Local exchange carriers may charge interest, subject to applicable laws, in connection with installment purchases of embedded CPE.
- (i) **Party-line equipment.** Local exchange carriers shall offer embedded party-line CPE for sale and are encouraged to offer repairs of that equipment at non-tariffed rates to ensure that malfunctioning party-line CPE does not impair service to other parties. Complaints regarding the provision of such repair service will be addressed as required by the commission and its staff.
- (j) **Billing.** After deregulation of CPE, the local exchange carrier may bill customers for lease payments, including applicable sales taxes, for equipment owned by the carrier as part of its nonregulated operations or owned by another entity. Bills must clearly distinguish between nonregulated charges for equipment and regulated charges for service.
- (k) **Specialized equipment.** Local exchange carriers may provide, under tariff, specialized CPE needed by persons whose hearing, speech, vision, or mobility is impaired. This equipment shall be furnished in compliance with Title 47, Code of Federal Regulations, Part 68. Complaints regarding the provision of such equipment will be addressed as required by the commission and its staff.

§23.69 Integrated Services Digital Network (ISDN).

- (a) **Purpose.** The commission finds that Integrated Services Digital Network (ISDN) is an alternative to "plain old telephone service." At this time, ISDN is not a replacement for "plain old telephone service," but rather ISDN provides the public switched telephone network with end-to-end digital connectivity. As such, ISDN should be made available to customers at a reasonable price, should be as accessible as possible to customers who want ISDN, should meet minimum standards of quality and consistency, and should be provided in such a manner that permits the dominant certificated telecommunications utility (DCTU) a reasonable opportunity to earn a reasonable return on invested capital. The provisions of this section are intended to establish the minimum criteria for the provision of ISDN.
- (b) **Application.**
- (1) This section applies to DCTUs.
 - (2) All DCTUs providing ISDN must do so in accordance with the requirements of this section.
 - (3) An application to make ISDN available under this section shall comply with the requirements of §23.57 of this title (relating to Telecommunications Privacy).
- (c) **Definitions.** The following words and terms when used in this section shall have the following meaning unless the context clearly indicates otherwise:
- (1) **B-Channel** — ISDN bearer service channel.
 - (2) **Basic Rate Interface (BRI) ISDN** — one of the access methods to ISDN, comprising two 64 Kbps B-channels and one 16 Kbps D-channel (2B+D).
 - (3) **Bellcore** — Bell Communications Research, Inc.
 - (4) **D-Channel** — The ISDN out-of-band signaling channel.
 - (5) **Exchange Area** — has the same meaning as defined in §23.3 of this title (relating to Definitions).
 - (6) **Foreign Exchange (FX)** — exchange service furnished by means of a circuit connecting a customer's station to a primary serving office of another exchange.
 - (7) **Foreign Serving Office (FSO)** — Exchange service furnished by means of a circuit connecting a customer's station to a serving office of the same exchange but outside of the serving office area in which the station is located.
 - (8) **Integrated Services Digital Network (ISDN)** — a digital network architecture that provides a wide variety of communications services, a standard set of user-network messages, and integrated access to the network. Access methods to the ISDN are the Basic Rate Interface (BRI) and the Primary Rate Interface (PRI).
 - (9) **Line** — has the same meaning as defined in §23.3 of this title (relating to Definitions).
 - (10) **LRIC** — Long run incremental cost.
 - (11) **National ISDN** — the standards and services promulgated for ISDN by Bellcore.
 - (12) **Primary Rate Interface (PRI) ISDN** — one of the access methods to ISDN, the 1.544-Mbps PRI comprises either twenty-three 64 Kbps B-channels and one 64 Kbps D-channel (23B+D) or twenty-four 64 Kbps B-channels (24B) when the associated call signaling is provided by another PRI in the group.
- (d) **Availability of ISDN.**
- (1) No later than July 1, 1996, each DCTU shall make ISDN available to all customers in exchange areas having 50,000 or more access lines as of the February 22, 1995. For purposes of this section, making ISDN available means providing ISDN to a customer within 30 days of that customer's request. Nothing in this section shall be construed as requiring a DCTU to provide ISDN to any customer prior to that customer's request for ISDN. The requirements of this paragraph shall not be met by making ISDN available to the customers of these exchange areas using a foreign exchange (FX) arrangement.
 - (2) No later than July 1, 1996, each DCTU subject to the requirements of paragraph (1) of this subsection shall make ISDN available to all customers in exchange areas having less than

50,000 access lines as of February 22, 1995. The requirements of this paragraph may be met by making ISDN available to the customers of these exchange areas using a foreign exchange (FX) arrangement, if that is the most economically efficient means for the DCTU to make ISDN available.

- (3) It is the goal of the commission that ISDN should be made available to customers in all exchange areas not included in paragraphs (1) and (2) of this subsection. To this end, all telecommunications providers are encouraged to work together to make ISDN available to the customers of the DCTUs that do not have the facilities with which to make ISDN available to their customers. In the exchange areas not included in paragraph (1) of this section, the commission recognizes that ISDN may be made available using a foreign exchange (FX) arrangement, if that is the most economically efficient means for the DCTU to make ISDN available.
- (4) No later than July 1, 1996, each LEC subject to paragraphs (1) and (2) of this subsection shall prepare a plan describing in detail the DCTU's proposal for its good faith effort toward making ISDN available without FSO and FX arrangements to all of the DCTU's customers no later than January 1, 2000, and/or the DCTU's proposal for its good faith effort toward making available end-to-end digital connectivity that is equal to or superior to ISDN as offered pursuant to this section and that is compatible with such ISDN.
- (5) No later than January 1, 1997, each DCTU not subject to paragraphs (1) and (2) of this subsection shall prepare a plan describing in detail the DCTU's proposal for its good faith effort toward making ISDN available to all of the DCTU's customers no later than January 1, 2000, and/or the DCTU's proposal for its good faith effort toward making available end-to-end digital connectivity that is equal to or superior to ISDN as offered pursuant to this section and that is compatible with such ISDN.
- (6) The plans required by paragraphs (4) and (5) of this subsection shall include, but not be limited to, information as to the number and percentage of access lines in the DCTU's service area for which ISDN would be available; the total number of customers that would be served via FX and FSO arrangements; a specific timetable for the upgrading of each exchange; and the proposed steps and methods of each upgrade.

(e) ISDN Standards and Services.

(1) ISDN standards.

(A) At a minimum, all ISDN shall comply with National ISDN-1 and National ISDN-2 Standards as promulgated by Bellcore as of February 22, 1995.

(B) All ISDN shall be capable of providing end-to-end digital connectivity.

- (2) **ISDN services.** At a minimum, the DCTU shall make available the ISDN services listed in the National ISDN-1 and National ISDN-2 Standards promulgated by Bellcore as of February 22, 1995.
- (3) **Existing customers.** Existing customers as of February 22, 1995 may continue to receive ISDN irrespective of whether that ISDN complies with this subsection. Those customers may continue to receive such ISDN and shall be required to receive ISDN under the requirements of this subsection only if there is at least a 30 day customer-caused cessation of the ISDN service provided by the DCTU.
- (4) **Waiver provision.** A DCTU may request, and the presiding officer may grant for good cause, modification or waiver of paragraphs (1) and/or (2) of this subsection. Such a request may be reviewed administratively. Any request for modification or waiver of the requirements of paragraphs (1) and/or (2) of this subsection shall include a complete statement of the DCTU's arguments and factual support for that request.

(f) Costing and Pricing of ISDN.

- (1) **Costing of ISDN.** The cost standard for ISDN shall be the long run incremental cost (LRIC) of providing ISDN.
- (2) **Pricing of ISDN.**
 - (A) **Rates and terms.**

- (i) The rates and terms of ISDN, including BRI, PRI and other ISDN services, shall be just and reasonable and shall not be unreasonably preferential, prejudicial, or discriminatory, subsidized directly or indirectly by regulated monopoly services, or predatory or anticompetitive.
 - (ii) The annual revenues for ISDN, including BRI, PRI, and other ISDN services, shall be sufficient to recover the annual long run incremental cost and a contribution for joint and/or common costs, in the second year after it is first offered under the tariffs approved pursuant to this section.
 - (B) Foreign serving office (FSO) rate. Where the DCTU makes ISDN available by designating a foreign serving office (FSO) arrangement, the DCTU shall not charge an FSO rate.
 - (C) Foreign exchange (FX) rate.
 - (i) Except as provided in clause (ii) of this subparagraph, where the DCTU is allowed to make ISDN available by designating a foreign exchange (FX) arrangement, the DCTU may charge an FX rate. A new FX rate shall be developed specifically for ISDN and this rate shall not be usage based. If the FX rate is priced at not less than 100% of LRIC and at not more than 105% of LRIC, there shall be a rebuttable presumption that the amount of joint and/or common costs recovered is appropriate.
 - (ii) Where the DCTU can make ISDN available to a customer by designating an FSO arrangement, the DCTU shall not charge a foreign exchange (FX) rate.
 - (D) Pricing of BRI. To further the commission's policy that ISDN be made available at a reasonable price and that ISDN be as accessible as possible to those customers who want ISDN, BRI should be priced to recover its LRIC plus a minimal amount of joint and/or common costs. If BRI is priced at not less than 100% of LRIC and at not more than 105% of LRIC, there shall be a rebuttable presumption that the amount of joint and/or common costs recovered is appropriate.
 - (E) Existing customers. Existing customers as of February 22, 1995 shall be subject to the rates set in compliance with this subsection, notwithstanding their choice to continue receiving ISDN under subsection (e) of this section.
- (3) **Pricing of ISDN for Small LECs.** After a Class A DCTU is in compliance with this section, a Small Local Exchange Carrier (SLEC) as defined in §23.94 of this title (relating to Small Local Exchange Carrier Flexibility) may price ISDN services at plus or minus 25% of the rates approved by the commission for that Class A DCTU providing the service within the State of Texas or at the rates for ISDN services approved by the commission for a similar SLEC. For the purpose of this section a similar SLEC is defined as a SLEC having a total number of access lines within 5,000 access lines of the applying SLEC.
- (g) **Requirements for notice and contents of application in compliance with this section.**
- (1) **Notice of application.** The presiding officer may require notice to the public as required by Subchapter D of the commission's Procedural Rules and shall require direct notice to all existing ISDN customers. Unless otherwise required by the presiding officer or by law, the notice shall include at a minimum a description of the service, the proposed rates and other terms of the service, the types of customers likely to be affected if the application is approved, the probable effect on the DCTU's revenues if the application is approved, the proposed effective date for the application, and the following language:
 "Persons who wish to comment on this application should notify the commission by (specified date, ten days before the proposed effective date). Requests for further information should be mailed to the Public Utility Commission of Texas, (insert current commission address), or you may call the Public Utility Commission Public Information Office at (insert current commission telephone number) or (insert current commission telephone number for text telephone) for text telephone."
 - (2) **Contents of application for each DCTU not electing the SLEC pricing provisions of subsection (f)(3) of this section.** A DCTU that makes ISDN available shall file with the

commission an application complying with the requirements of this section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the Regulatory Division and one copy shall be delivered to the Office of Public Utility Counsel. The application shall contain the following:

- (A) the proposed tariff sheets to implement the requirements of subsection (d), (e), and (f) of this section as required by subsection (h) of this section;
 - (B) a statement by the DCTU describing how it intends to comply with this section, including how it intends to comply with subsections (d), (e) and (f) of this section as required by subsection (h) of this section;
 - (C) a description of the proposed service(s) and the rates, terms, and conditions under which the service(s) are proposed to be offered and an explanation of how the proposed rates and terms of the service(s) are just and reasonable and are not unreasonably preferential, prejudicial, or discriminatory, subsidized directly or indirectly by regulated monopoly services, or predatory or anticompetitive;
 - (D) a statement by the DCTU of whether the application contains a rate change;
 - (E) the proposed effective date of the service;
 - (F) a statement detailing the method and content of the notice, if any, the utility has provided or intends to provide to the public regarding the application and a brief statement explaining why the DCTU's notice proposal is reasonable and that the DCTU's notice proposal complies with applicable law;
 - (G) a copy of the text of the notice, if any;
 - (H) a long run incremental cost study (LRIC) supporting the proposed rates;
 - (I) projections of revenues, demand, and costs demonstrating that in the second year after the ISDN service is first offered under the tariffs approved pursuant to this section, the proposed rates will generate sufficient annual revenues to recover the annual long run incremental costs of providing the service, as well as a contribution for joint and/or common costs;
 - (J) the information required by §23.57 of this title;
 - (K) a statement specifying the exchanges in which the DCTU proposes to offer ISDN, the exchanges in which the DCTU proposes to offer ISDN using an FSO arrangement, the exchanges in which the DCTU proposes to offer ISDN using an FX arrangement, and the exchanges in which the DCTU does not propose to offer ISDN; and
 - (L) any other information which the DCTU wants considered in connection with the commission's review of its application.
- (3) Contents of application for a SLEC. A SLEC that makes ISDN available and elects to price ISDN services under subsection (f)(3) of this section shall file with the commission an application complying with the requirements of this section. In addition to copies required by other commission rules, one copy of the application shall be delivered to the Regulatory Division and one copy shall be delivered to the Office of Public Utility Counsel. The application shall contain the following:
- (A) contents of application required by paragraph (2)(A), (B), (D), (E), (F), (G), (J), (K), and (L) of this subsection;
 - (B) a description of the proposed service(s) and the rates, terms, and conditions under which the service(s) are proposed to be offered and an affidavit from the general manager or an officer of the SLEC approving the proposed ISDN service;
 - (C) a notarized affidavit from a representative of the SLEC:
 - (i) verifying the number of access lines, including the access lines of affiliates of such SLEC providing local exchange telephone service within the state, the SLEC has in service in the State of Texas;
 - (ii) verifying that the rates have been determined by the SLEC independently;
 - (iii) including a statement affirming that the rates are just and reasonable and are not unreasonably preferential, prejudicial, or discriminatory; subsidized directly or indirectly by regulated monopoly services; or predatory, or anticompetitive; and

- (D) an explanation demonstrating that the rates for the proposed ISDN service are within the guidelines provided by subsection (f)(3) of this section; and
 - (E) projections of the amount of revenues that will be generated by the ISDN service.
- (h) **Timing of and requirements for each DCTU's compliance with this section.**
- (1) **Timing of and requirements for the compliance application.**
 - (A) Each DCTU that is required to make ISDN available under subsection (d)(1) and (2) of this section shall file with the commission within 270 days of February 22, 1995 an application (as described in subsection (g) of this section). The effective date for the tariffs and compliance under this paragraph shall be no later than July 1, 1996. Pursuant to subsection (g)(2)(A) and (B) of this section, the DCTU shall show its compliance with the requirements of:
 - (i) subsection (d)(1) and (2) of this section;
 - (ii) subsections (e)(1)(A) and (B), (e)(2)(A), and (e)(3) of this section or request a waiver pursuant to subsection (e)(4) of this section and provide sufficient justification for the good cause exception; and
 - (iii) subsection (f)(2)(B), (C), and (D) of this section.
 - (B) Each DCTU having ISDN tariffs in effect as of February 22, 1995 and that is not subject to subparagraph (A) of this paragraph shall file with the commission within 270 days of February 22, 1995, an application (as described in subsection (g) of this section). The effective date for the tariffs and compliance under this paragraph shall be no later than July 1, 1996. Pursuant to subsection (g)(2)(A) and (B) of this section, the DCTU shall show its compliance with the requirements of:
 - (i) subsections (e)(1)(A) and (B), (e)(2)(A), and (e)(3) of this section or request a waiver pursuant to subsection (e)(4) of this section and provide sufficient justification for the good cause exception; and
 - (ii) subsection (f)(2)(B), (C), and (D) of this section.
 - (C) Rates proposed for services pursuant to paragraphs (1)(A)(ii) and (1)(B)(i) of this subsection that are not tariffed as of the effective date of this section and rates proposed under paragraphs (1)(A)(iii) and (1)(B)(ii) of this subsection shall comply with the requirements of subsections (f)(1) and (f)(2)(A) and (E) of this section.
 - (D) Each DCTU offering ISDN after the effective date of this section shall file with the commission an application (as described in subsection (g) of this section). Pursuant to subsection (g)(2)(A) and (B) of this section the DCTU shall show its compliance with the requirements of:
 - (i) subsections (e)(1)(A) and (B) and (e)(2)(A) of this section or request a waiver pursuant to subsection (e)(4) of this section and provide sufficient justification for the good cause exception; and
 - (ii) subsection (f)(1) and (2) of this section for each DCTU not electing the SLEC pricing provisions of subsection (f)(3) of this section or subsection (f)(3) of this section for a SLEC.
 - (2) **Timing of each DCTU's plan.**
 - (A) Each DCTU's plan required by subsection (d)(4) of this section shall be filed with the commission no later than July 1, 1996 and each DCTU's plan required by subsection (d)(5) of this section shall be filed with the commission no later than January 1, 1997.
 - (B) After the due date of the plan, each DCTU shall file a revised plan with the commission as updates or modifications are made to the DCTU's plan.
- (i) **Commission processing of application.**
- (1) **Administrative review.** An application considered under this section may be reviewed administratively unless the DCTU requests the application be docketed or the presiding officer, for good cause, determines at any point during the review that the application should be docketed.

- (A) The operation of the proposed rate schedule may be suspended for 35 days after the effective date of the application. The effective date shall be no earlier than 30 days after the filing date of the application or 30 days after public notice is completed, whichever is later.
- (B) The application shall be examined for sufficiency. If the presiding officer concludes that material deficiencies exist in the application, the applicant shall be notified within ten working days of the filing date of the specific deficiency in its application, and the earliest possible effective date of the application shall be no less than 30 days after the filing of a sufficient application with substantially complete information as required by the presiding officer. Thereafter, any time deadlines shall be determined from the 30th day after the filing of the sufficient application and information or from the effective date if the presiding officer extends that date.
- (C) While the application is being administratively reviewed, the commission staff and the staff of the Office of Public Utility Counsel may submit requests for information to the DCTU. Six copies of all answers to such requests for information shall be filed with Central Records and one copy shall be provided the Office of Public Utility Counsel within ten days after receipt of the request by the DCTU.
- (D) No later than 20 days after the filing date of the sufficient application, interested persons may provide to the commission staff written comments or recommendations concerning the application. The commission staff shall and the Office of Public Utility Counsel may file with the presiding officer written comments or recommendations concerning the application.
- (E) No later than 35 days after the effective date of the application, the presiding officer shall issue an order approving, denying, or docketing the DCTU's application.
- (2) **Approval or denial of application.** The application shall be approved by the presiding officer if the proposed ISDN offered by the DCTU complies with each requirement of this section. If, based on the administrative review, the presiding officer determines that one or more of the requirements not waived have not been met, the presiding officer shall docket the application.
- (3) **Standards for docketing.** The application may be docketed pursuant to §22.33(b) of the commission's Procedural Rules.
- (4) **Review of the application after docketing.** If the application is docketed, the operation of the proposed rate schedule shall be automatically suspended to a date 120 days after the applicant has filed all of its direct testimony and exhibits, or 155 days after the effective date, whichever is later. Affected persons may move to intervene in the docket, and the presiding officer may schedule a hearing on the merits. The application shall be processed in accordance with the commission's rules applicable to docketed cases.
- (5) **Interim rates.** For good cause, interim rates may be approved after docketing. If the service requires substantial initial investment by customers before they may receive the service, interim rates shall be approved only if the DCTU shows, in addition to good cause, that it will notify each customer prior to purchasing the service that the customer's investment may be at risk due to the interim nature of the service.
- (j) **Commission processing of waivers.** Any request for modification or waiver of the requirements of this section shall include a complete statement of the DCTU's arguments and factual support for that request. The presiding officer shall rule on the request expeditiously.